

Morgan Lewis

Zane David Memeger
Partner
+1.215.963.5750
zane.memeger@morganlewis.com

June 1, 2023

Hon. Paul A. Engelmayer
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

Re: D.J.C.V., et. al. v. United States of America, No. 20-cv-5747 (PAE)
Unopposed Letter Motion to File Plaintiffs' Opening Jurisdictional Brief and
Accompanying Materials Under Seal

Dear Judge Engelmayer:

We represent the Plaintiffs in the above-captioned matter. In accordance with the Court's May 16, 2023, order (Dkt. 180), Plaintiffs are filing an unredacted version of their opening brief addressing the question of subject matter jurisdiction along with an attorney declaration with 39 exhibits that include materials produced by the government during discovery in this matter and deposition transcripts. The attorney declaration, accompanying exhibits and portions of Plaintiffs' brief include information that the government has designated confidential pursuant to the protective order in this matter (Dkt. 112). Consistent with the protective order and pursuant to Rule 4.B.2 of the Court's Individual Rules and Practices in Civil Cases, Plaintiffs respectfully request that the unredacted version of their opening brief, the attorney declaration and accompanying exhibits be filed under seal. The government does not oppose this request.

In preparation for filing opening briefs, counsel for Plaintiffs shared with the government the documents and portions of deposition transcripts cited in their brief. We requested that the government provide the confidentiality designations for the deposition transcripts and any proposed redactions to the cited documents by May 25, 2023, so that Plaintiffs could timely file redacted versions of their opening brief and the documents cited therein on the public docket, in conformity with the protective order in this case. The government provided Plaintiffs with its final confidentiality designations for deposition transcripts last evening, and today provided its final set of proposed redactions for the documents cited in Plaintiffs' opening brief. Accordingly, Plaintiffs do not have the requisite information, nor time, to redact documents cited in their brief or redact relevant portions of the brief itself. For this reason, Plaintiffs respectfully request that the Court allow them to file their unredacted brief and accompanying materials under seal so they can comply with the Court's May 16 order.

Plaintiffs intend to file a redacted version of the brief and the accompanying materials for the public docket by no later than Tuesday, consistent with the presumption in favor of public access to judicial documents. We will continue to coordinate with counsel for the government on their proposed redactions. In the event that the parties do not agree on the scope of the redactions, Plaintiffs reserve the right to challenge the government's proposed redactions with the Court.

Morgan, Lewis & Bockius LLP

1701 Market Street
Philadelphia, PA 19103-2921
United States

 +1.215.963.5000
 +1.215.963.5001

Hon. Paul A. Engelmayer
June 1, 2023
Page 2

We thank the Court for its attention to this matter.

Sincerely,

/s/ Zane D. Memeger

Zane David Memeger

Cc: All Counsel of Record (via ECF and email)

The Court grants plaintiffs' request to file the unredacted versions of their opening brief and attorney declarations under seal. The Court orders plaintiffs to file redacted versions of those materials on the public docket by June 6, 2023.

SO ORDERED.

Paul A. Engelmayer

PAUL A. ENGELMAYER
United States District Judge
June 2, 2023